

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 362 of 1984

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
Nos.1 to 5 - No

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KACHHIYA RASIKLAL SOMABHAI

Versus

DISTRICT MAGISTRATE, KHEDA

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Appearance:

MR HM PARIKH for Petitioner  
SERVED for Respondent No. 1  
PUBLIC PROSECUTOR for Respondent No. 2

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 06/01/97

ORAL JUDGEMENT

The petitioner is a trader dealing in, inter alia, purchase and sale of ground-nut oil. He has been issued a licence under the Essential Commodities Act 1955 and the orders made thereunder. It appears that on the relevant date the petitioner failed to show the correct information about his stock held by the petitioner. For that alleged irregularity and other irregularities noticed by the Civil Supply Official a notice was issued

to the petitioner enumerating several irregularities noticed by the Civil Supply officials and to show cause why action should not be taken under section 6 of the Essential Commodities Act for the alleged breach of Gujarat Essential Articles (Licencing, Control and Stock Declaration) Order, 1981. Pursuant to the said show cause notice, the petitioner submitted his reply. Considering the reply and after hearing the petitioner the Collector, Kheda imposed penalty of confiscation of 110 Tins of ground-nut oil. Feeling aggrieved the petitioner preferred an appeal before the Government under section 6C of the Act. The said Appeal was rejected under the order dated 13th June, 1984.

Feeling aggrieved, the petitioner has preferred this Special Criminal Application and has prayed for issuing a writ of certiorari and for quashing and setting aside the order of the Collector made on 31-1-84.

Upon inquiry learned Advocate Mr.Parikh has submitted that no prosecution has been lodged against the petitioner, for the alleged breach of above referred order, under section 7 of the Act.

In my view, these are essentially civil proceedings and the present criminal application is, therefore, not maintainable. I do not express any opinion on the merits of the matter and dismiss this application as it is not maintainable. Petitioner shall be at liberty to prefer Special Civil Application under Article 226 or 227 of the Constitution, if so desired.

Petition is dismissed accordingly. Rule is discharged. Petitioner shall bear the cost of this petition.

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